REMARKS

This application has been reviewed in light of the Office Action dated May 4, 2006. Claims 1-5, 8-10 and 12-23 remain pending in this application. Independent Claims 1 and 8-10 have been amended to define still more clearly what Applicants regard as their invention, in terms that distinguish over the art of record. Claim 11 has been cancelled without prejudice or disclaimer of subject matter. Claims 12-23 have been added. Favorable reconsideration is requested.

The Office Action rejected Claims 1-5, 8 and 11 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 5,963,916 (*Kaplan*) and rejected Claims 9 and 10 under 35 U.S.C. § 103(a) as being unpatentable over *Kaplan* in view of "Official Notice." Applicants respectfully traverse these rejections. Cancellation of Claim 11 renders the rejection of that claim moot.

Applicants wish to thank Examiner Kazimi for extending the courtesy of conducting a telephonic interview in this application on August 31, 2006 with one of their attorneys to discuss the rejections and a reworking of these claims to overcome this rejection.

During the interview, Applicants' attorney and the Examiner discussed the outstanding rejections under 35 U.S.C. §§ 102 and 103. In particular Applicants' attorney distinguished the "genre" feature vector described in *Kaplan* from the "emotional quality," "situation quality," "sound quality," and "vocal quality" attributes recited in independent Claims 1 and 8-10, respectively. In particular, as understood by Applicants, *Kaplan* relates to categorizing and searching music according to "hot zones" musical categories, or genres

as previously explained in Applicants December 17, 2004 and May 6, 2005 Responses. Nothing has been found in *Kaplan* that would teach or suggest "defining a plurality of music search attributes, wherein at least one of the plural music search attributes describes" "an emotional quality," "a situational quality," "a sound quality", or "a vocal quality", as recited in Claims 1 and 8-10, respectively.

Accordingly, Applicants submit that Claims 1 and 8-10 are not anticipated by *Kaplan*, and respectfully request withdrawal of the rejections under 35 U.S.C. § 102(e).

Applicants' attorney stated that support and examples of the attributes recited in the claims of the present invention can be found in the amendment to the specification in the December 17, 2004, Response to Office Action at page 6-7. In addition, during the course of the interview amendments were discussed which would further clarify the above-mentioned attributes. Claim 11 was cancelled because "mood" is encompassed by "emotional quality" as recited in Claim 1.

Applicants' attorney also discussed the hypothesized combination of *Kaplan* and "Official Notice", in which the Examiner asserts that "requesting music based on sound quality and music content other than genre is old and well known in the art." Office Action at page 4. As Applicants' attorney pointed out during the interview, the Examiner has not provided any support for this statement, and Applicants believe that it is entirely speculative. Applicants therefore respectfully traverse this assertion and, to the extent that the Examiner is relying on common knowledge in the art or on a scientific theory, request that the Examiner cite a reference in support of this position, in accordance with M.P.E.P. §§ 2144.02 and 2144.03. Although it is not conceded that the rejection under § 103(a) is

correct or valid, Claims 9 and 10 have been amended in an effort to expedite the allowance of this application.

Accordingly, Applicants submit that Claims 9 and 10 are patentable over the cited art, and respectfully request withdrawal of the rejection under 35 U.S.C. § 103(a).

A review of the other art of record has failed to reveal anything that, in Applicants' opinion, would remedy the deficiencies of the art discussed above, as applied against the independent claims herein. Therefore, those claims are respectfully submitted to be patentable over the art of record.

The other claims in this application depend from one or another of the independent claims discussed above, and, therefore, are submitted to be patentable for at least the same reasons. Since each dependent claim is also deemed to define an additional aspect of the invention, however, individual consideration or reconsideration, as the case may be, of the patentability of each claim on its own merits is respectfully requested.

Applicants' undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our below listed address.

Respectfully submitted,

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